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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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STATE DOCUMENTS

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20° centigrade but not release the blood sample for confidential, anonymous scientific study. A blood sample released for confidential, anonymous study must not contain information that may be used to determine the identity of the donor. A blood sample released may contain demographic or other statistical information. If scientific study identifies genetic information that may benefit the child, the department may notify confidentially the parent or legal guardian, or the child if eighteen years of age or older, of this information. Blood samples taken prior to the effective date of the act that have not been stored under the conditions prescribed in the legislation must be properly destroyed. The legislation revises penalties for violations, specifying that fines may not exceed fifty thousand dollars and imprisonment not more than three years.

Both the House and Senate adopted the conference committee report on Senate **H.3163**, the **South Carolina Historic Rehabilitation Incentives Act**, and the legislation was enrolled for ratification. The bill provides state income tax credits for certain expenditures incurred in the rehabilitation of certified historic structures located in this State. The legislation provides a state income tax credit equal to ten percent of rehabilitation expenses incurred for a taxpayer who is eligible for the federal income tax credit allowed for the rehabilitation of historic structures. These income tax credits involve the rehabilitation of historic structures for use as places of business. For taxpayers who do not qualify for the federal income tax credit and who are rehabilitating a certified historic residential structure, the legislation provides a state income tax credit equal to twenty-five percent of rehabilitation expenses incurred.

The House approved **S.439** and enrolled the bill for ratification. This bill provides for **lowering flags flown atop the State Capitol to half-staff** until noon on Memorial Day, and lowering the flags to half-staff on the day on which funeral services are held for certain public officials.

The House concurred in Senate amendments to **H.4728** and enrolled the bill for ratification. This bill revises provisions relating to the **unlawful throwing of body fluids on an employee of a state or local correctional facility** by an inmate, so as to provide that in addition to an inmate, these provisions also apply to a detainee, a person taken into custody, or a person under arrest. The provisions are also expanded so as to apply not only to an employee of a state or local correctional facility but also to a state or local law enforcement officer, a visitor of a correctional facility, or any other person authorized to be present in an official capacity. The legislation also provides that a person accused of this crime may be tested for a blood borne disease within seventy-two hours of the crime if a health care professional believes that exposure to the accused person's body fluid may pose a significant health risk to a victim of the crime.

The House concurred in Senate amendments to **H.4598**, a bill providing for **Uniform Prudent Investor Act revisions**, and enrolled the bill for ratification. This bill revises the Uniform Prudent Investor Act, so as to provide that investments in mutual funds sponsored by affiliated organizations are allowed by the prudent investor rule if the investments meet the criteria of the rule.

indicated by the background check and the court grants the petition for a name change, the clerk of court must notify the State Law Enforcement Division of the petitioner's new name. The division shall make the appropriate changes to the petitioner's criminal record. If a petitioner is in custody of the Department of Corrections and the court grants the petition for a name change, the clerk of court must notify the department of the petitioner's new name. The department shall make the appropriate changes to the petitioner's department record. All costs associated with the requirements of this section are the sole responsibility of the petitioner.

The House amended, approved, and sent to the Senate **H.4387**, the **Gambling Cruise Prohibition Act**. The legislation explicitly states that it is the purpose of this act to prohibit gambling activities on so-called "cruises to nowhere." The legislation provides that it is unlawful for a person to use any gambling device or engage in gambling aboard a vessel within the jurisdiction of this State. The legislation provides that it is unlawful for a person to use any gambling device or engage in gambling aboard a vessel that is on a voyage if: (a) the voyage begins and ends in this State; and (b) during the voyage the vessel does not make an intervening stop. The legislation provides that it is unlawful for a person to own, keep, operate, manage, or maintain any gambling device on a vessel within the jurisdiction of this State unless: (a) the vessel is engaged in a voyage that begins and ends in this State and makes an intervening stop; and (b) any gambling that occurs aboard the vessel occurs only outside the jurisdictional waters of this State. The legislation also provides that it is unlawful for a person to own, keep, operate, manage, or maintain a vessel that transports persons to another vessel for the purpose of engaging in a "cruise to nowhere" style gambling cruise. Under the bill, an 'intervening stop' occurs when a vessel departs the jurisdictional waters of this State and sails into United States or international waters, and between the time the vessel departs the jurisdictional waters of this State and the time it returns to the jurisdictional waters of this State, the vessel docks at a port of call in another state or possession of the United States or foreign country and remains in that port for a period of time sufficient to allow passengers the opportunity to disembark the vessel for sightseeing, shopping, or other tourism-related activities at that port. A person who engages in gambling that is unlawful under this act must be assessed a civil penalty of not more than one hundred dollars for each violation, with an aggregate total not to exceed one thousand dollars for a twenty-four hour period. An individual who violates provisions pertaining to the operation or facilitation of a "cruise to nowhere" must be assessed a civil penalty of not more than one thousand dollars for each violation, with an aggregate total not to exceed ten thousand dollars for a twenty-four period. The legislation provides that county and municipal governing bodies may adopt ordinances to exempt their local areas from prohibitions imposed under this legislation.

The House returned **S.963**, a bill **revising penalties for unlawfully passing a stopped school bus**, to the Senate with amendments. The bill provides that a first offense for such a violation must be tried exclusively in magistrates court. The bill revises the penalty for a second or subsequent offense for such a violation by providing that if the second or subsequent violation occurred more than five years after the

The House amended, approved, and sent to the Senate **H.4591**, regarding **materials placed on the approved list of instructional materials and textbooks used in the public schools**. This bill provides that all instructional materials placed on the approved list of instructional materials and textbooks for use in South Carolina public schools shall contain the substance and level of performance outlined in the grade and subject specific academic standards adopted by the State Board of Education. The bill also repeals a current section regarding procedures for selection of textbooks and textbook requests.

The House approved and sent to the Senate **H.5010**, which enacts the **"Overdue Tax Debt Collection Act,"** authorizing the South Carolina Department of Revenue (DOR) to impose a collection assistance fee on certain overdue tax debts equal to twenty percent of the overdue tax amount. The bill also allows DOR to retain a portion of this fee and allows DOR to bring suit in courts of other states to collect taxes due this State.

The House approved and sent to the Senate **H.5011**, concerning **discounts for taxpayers filing electronically** and other matters. The bill provides that the maximum discount of three thousand dollars allowed to a taxpayer for timely payment of sales and use taxes is increased to a maximum of three thousand one hundred dollars for taxpayers filing electronically. The bill also decreases from twenty thousand dollars to fifteen thousand dollars the threshold amount for which payments due to the Department of Revenue must be paid by a method in which the funds are available immediately to the State.

The House approved and sent to the Senate **H.4663**. This joint resolution **allows all South Carolina school districts and special schools, for fiscal years 2001-02 and 2002-03, to transfer up to twenty percent of revenue between programs to any program with the same funding source**. The resolution provides for review of the transfers by the State Department of Education and for provision of relevant information to the General Assembly upon the General Assembly's request. The resolution also allows, under specified circumstances, a carry forward of Education Improvement Act and restricted state grant fund revenue into the following fiscal year. The resolution also allows all school districts and special schools of the State, for fiscal years 2001-02 and 2002-03, to expend funds received from the Children's Education Endowment Fund for school facilities and fixed equipment assistance instead for any instructional program.

The House approved and sent to the Senate **H.5003**. This joint resolution **directs the State Treasurer to transfer the sum of sixty-one million dollars from the Extended Care Maintenance Fund to the State general fund to offset fiscal year 2001-2002 mid-year sequestrations as imposed by the State Budget and Control Board**. The resolution further provides that if the Extended Care Maintenance Fund is insufficient to meet its obligations due to this transfer, the State is solely responsible for repaying an amount to restore the transferred funds.

The House amended, approved, and sent to the Senate **H.4481**, a bill concerning **higher education students activated for full-time military service**. This bill provides

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data processing equipment, and related software. The bill deletes provisions regarding installment loans made by the State Treasurer in these instances, and deletes provisions authorizing the State Treasurer, for purposes of carrying out these provisions, to borrow from the State Insurance Reserve Fund.

The House amended, approved, and sent to the Senate **H.3243**. This bill amends the law regarding **personal and real property exempt from attachment, levy, and sale under any mesne or final process issued by any court or bankruptcy proceeding**. Current law exempts the debtor's *right to receive* certain individual retirement accounts, individual retirement annuities, and accounts established as part of certain trusts. For purposes of this provision, this bill changes the words "right to receive" to "interest in." The bill also deletes limits on the exemption for these specified individual retirement accounts, annuities, and trusts. Current law limits this exemption "to the extent reasonably necessary for the support of the debtor and any dependent of the debtor."

The House returned **S.190**, requiring **notification from the Department of Transportation for certain roadwork**, to the Senate with amendments. The bill provides that the Department of Transportation (DOT) shall notify a county legislative delegation's chairman: before DOT closes a bridge or road within the legislative delegation's county for repairs that will not be completed within a forty-five day period except in an emergency situation; and before DOT conducts vegetation management of the medians, roadsides, and interchanges along the interstate system within the legislative delegation's county in accordance with the DOT Commission's transportation district-by-district policy. This applies only when the DOT Commission makes revision to its policy. The bill also repeals current provisions regarding vegetation management of medians, roadsides, and interchanges along interstates.

The House approved and sent to the Senate **H.4968**. This bill **provides that a registered brand is the property of the person adopting and registering the brand, his heirs and assigns, until and unless the brand is cancelled or revoked** as provided in the bill. The bill deletes the current provision that the Secretary of State shall cancel the registration of any brand upon failure to renew the registration, and repeals current sections relating to notice of need for renewal of a brand registration and relating to abandonment of the brand by failure to renew.

The House approved and sent to the Senate **H.4771**. This bill revises definitions used concerning the licensure and regulation of **architects**, so as to add the definition of "emeritus architect." The legislation exempts emeritus architects from continuing education requirements unless they leave retirement and return to active practice. The bill includes the Canadian Architectural Certification Board as an accrediting body of schools or programs for architects. The bill authorizes the Board Of Architectural Examiners to establish the South Carolina Architecture Education and Research Fund. The legislation allocates revenue from renewal fees to the fund, and provides for the purposes of the fund.

bill provides items upon which a reasonable potential determination must be based. The bill directs DHEC to promulgate as an amendment to a specified regulation a methodology for interpreting and implementing any water quality criteria that may apply to the protection of indigenous aquatic life from sublethal effects, including reproduction and growth. This methodology must be based on studies which are specified in the bill. The bill provides for imposing WET NPDES permit limitations expressed in terms of sublethal endpoints until such time as DHEC promulgates the methodology required for these provisions. The bill prohibits DHEC from using the results of sublethal WET testing as the basis for imposing requirements on permittees, except as specified in the bill, unless the effluent has exhibited significant and persistent elevated WET test results. The bill provides that for purposes of performing WET reasonable potential determinations, and setting WET permit limitations, DHEC shall interpret and implement any applicable water criteria in a regulation specified in the bill, based on the actual frequency, duration and magnitude of exposure to potentially toxic discharges. In this regard, the bill specifies certain actions which, among others, DHEC must carry out in this regard. The bill requires DHEC to develop guidance containing Data Quality Objectives that define the level of analytical accuracy and precision necessary to determine compliance with WET effluent limitations when using specified EPA standard WET test methods. The Data Quality Objectives must include an enhanced laboratory certification program that requires unconditional adherence to EPA approved methods. The bill provides certain items which must be disclosed by DHEC in the rationale for any NPDES permit in which a WET limit is imposed. The bill provides that DHEC must not impose color limitations in NPDES permits except in specified circumstances. The bill provides that within a prescribed time period DHEC shall promulgate a modification to R.61-68 clarifying that the provisions pertaining to use reclassification at R.61-68E.6 also are applicable to the issuance of variances from the water quality criteria for a period not to exceed the term of an NPDES permit, subject to renewal upon expiration of that period.

The Committee reported favorable on **H.4767**, a bill which **provides that certain provisions prohibiting unprotected cross-connections between public water systems and other water systems, sewers, or waste lines, do not apply to a residential lawn sprinkler system or lawn irrigation system that is professionally installed and connected to a public water system.**

The Committee reported favorable on **H.4650**. This bill **designates the Goldenrod as South Carolina's official state wildflower.**

The Committee reported favorable on **H.4562**, regarding **use of crab pots**. Current law provides that it is unlawful to use crab pots for commercial purposes between May first and October first within Pawley's Island Creek and Midway Creek on Pawley's Island. This bill deletes these specific dates so as to make this practice unlawful at any time. The bill further provides that it is unlawful to set or use crab pots in the Atlantic Ocean within one hundred fifty feet of the mean low tide watermark on Pawley's Island, except for individuals using a means other than a crab pot for personal consumption and not for sale.

provides that the fees shall be transferred to the Department of Health and Environmental Control (DHEC) to be **used only for certain emergency medical services** as provided in the bill. Fees would be allocated by a ratio of eighty-two percent to counties and fourteen percent to emergency medical service regional councils. DHEC's emergency medical service office is authorized under the bill to retain one percent of the fees to administer the program. The South Carolina EMS Association must be allocated three percent of the fees to promote Emergency Medical Services related educational opportunities to include the Asa Godowns Memorial Scholarship Program.

The Committee adjourned debate on H.4748, a bill relating to **operation of golf carts on highways**.

The Committee reported favorable with amendment on H.4911. As reported by the Committee, this bill creates and provides for a task force **to examine both the economic and instructional aspects of standardizing the beginning date for all public schools**. The task force is charged to look at the advantages or consequences of having a uniform school starting date as close to Labor Day as possible. Co-chaired by the State Board of Education and the State Commission on Higher Education, the task force is to report to the General Assembly as specified in the bill by January 15, 2003, at which time the task force will be abolished.

The Committee adjourned debate on H.3137, regarding **"hazing" in public schools**. The Committee also adjourned debate on H.4019, which provides that **bills considered by the General Assembly must be drafted so that a person with a high school education can clearly understand them**, and H.4686, which **relates to the manner of selection of the Board of Trustees at Winthrop University** (see S.892).

The Committee reported favorable with amendments on S.892. As reported by the Committee, this bill **revises the manner of appointment and terms of service of the Winthrop University Board of Trustees** and also **imposes attendance requirements for board members of public institutions of higher learning** (including technical and comprehensive educational institutions). The bill requires that of the seven members of the Winthrop Board to be elected by the General Assembly, one must be elected from each of the six Congressional Districts (and must be a resident of that district) and one must be elected by the General Assembly from the state at large. The bill provides for numbering the seats to correspond to the number of the Congressional District, and provides a schedule for filling future vacancies by seat number. The bill provides that Seat Eight shall be occupied by the State Superintendent of Education or his designee; Seat Eleven shall be a member appointed by the Governor; and the Governor or his designee shall occupy Seat Twelve. The bill provides that the members of the Board elected by the Winthrop University Alumni Association shall be elected for four-year terms to fill seats Nine and Ten in 2002. The bill provides that in 2006, the person elected by the Winthrop University Alumni Association to fill Seat Nine shall serve a six year term and the person elected to fill Seat Ten shall serve a four-year term. At the completion of those terms of office, all subsequent members of the board elected by the Winthrop University Alumni Association to fill Seats Nine and Ten shall be elected for six year

The Committee gave a favorable report on H.4922. This bill revises the procedure by which the General Assembly reviews state agency regulations. The bill requires **affirmative approval of regulations by the General Assembly** rather than the current system under which regulations become effective after one hundred twenty days. The bill provides that if a resolution to approve or disapprove a regulation has not been enacted by the end of the second year of the legislative session, the regulation must be promulgated as a new regulation before submitting for subsequent approval.

The Committee gave a report of favorable with amendment on H.4387, the **Gambling Cruise Prohibition Act**. The legislation explicitly states that it is the purpose of this act to prohibit gambling activities on so-called "cruises to nowhere." The legislation provides that it is unlawful for a person to use any gambling device or engage in gambling aboard a vessel within the jurisdiction of this State. The legislation provides that it is unlawful for a person to use any gambling device or engage in gambling aboard a vessel that is on a voyage if: (a) the voyage begins and ends in this State; and (b) during the voyage the vessel does not make an intervening stop. The legislation provides that it is unlawful for a person to own, keep, operate, manage, or maintain any gambling device on a vessel within the jurisdiction of this State unless: (a) the vessel is engaged in a voyage that begins and ends in this State and makes an intervening stop; and (b) any gambling that occurs aboard the vessel occurs only outside the jurisdictional waters of this State. The legislation also provides that it is unlawful for a person to own, keep, operate, manage, or maintain a vessel that transports persons to another vessel for the purpose of engaging in a "cruise to nowhere" style gambling cruise. Under the bill, an 'intervening stop' occurs when a vessel departs the jurisdictional waters of this State and sails into United States or international waters, and between the time the vessel departs the jurisdictional waters of this State and the time it returns to the jurisdictional waters of this State, the vessel docks at a port of call in another state or possession of the United States or foreign country and remains in that port for a period of time sufficient to allow passengers the opportunity to disembark the vessel for sightseeing, shopping, or other tourism-related activities at that port. A person who engages in gambling that is unlawful under this act must be assessed a civil penalty of not more than one hundred dollars for each violation, with an aggregate total not to exceed one thousand dollars for a twenty-four hour period. An individual who violates provisions pertaining to the operation or facilitation of a "cruise to nowhere" must be assessed a civil penalty of not more than one thousand dollars for each violation, with an aggregate total not to exceed ten thousand dollars for a twenty-four period. The legislation provides that county and municipal governing bodies may adopt ordinances to exempt their local areas from prohibitions imposed under this legislation.

The Committee gave a report of favorable with amendment to H.3959. This bill provides that a person who must complete an Alcohol and Drug Safety Action Program as a condition of reinstatement of his driving privileges to obtain a route restricted or special restricted driver's license may use the **route restricted or special**

WAYS AND MEANS

The full Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

S.1096 *SMALL GAME HUNTING* Sen. Moore

This bill revises the season for hunting raccoon and possum without weapons and with dogs only in Game Zones 1 through 11. The bill also requires that during a period in which raccoons, possums, or fox are allowed to be hunted without weapons, all firearms must be unloaded and secured in a weapons case, unless legally permitted.

S.1163 *FISH STAMPS AND TROUT LIMITS* Sen. Gregory

This bill provides that it is a misdemeanor punishable by fine or imprisonment for a person to take specified bass and trout in South Carolina waters without a state waters fisheries hatchery stamp and having the stamp in their possession while taking or transporting these fish. The bill provides for furnishing of the stamps to sales agents, provides for a fee for the stamp, and provides for use of revenue from the stamp. The bill also provides that not more than five trout may be taken in any one day from a specified portion of the lower Saluda River.

H.5159 *SALTWATER GAMEFISH CATCH LIMITS* Rep. Limehouse

This bill authorizes the board of the Department of Natural Resources to adjust catch limits and size limits, within statutorily approved ranges, for certain species of saltwater gamefish.

EDUCATION AND PUBLIC WORKS

H.5143 *DETERMINATION OF IMPROVEMENT RATINGS IN EDUCATION ACCOUNTABILITY ACT* Rep. J.R. Smith

This joint resolution establishes and provides for a committee to study and make recommendations concerning revisions in the manner in which the improvement ratings of schools under the Education Accountability Act are determined.

H.5146 *FISCAL IMPROPRIETIES IN A SCHOOL DISTRICT* Rep. Coleman

This bill provides that when the Superintendent of Education has information that fiscal improprieties may exist in a State school district, the Superintendent may

S.971 SOUTH CAROLINA CHILDREN'S JUSTICE TASK FORCE ACT

Sen. Hayes

This bill establishes the South Carolina Children's Justice Task Force as an advisory body to the General Assembly and Governor on issues related to the investigative, administrative, and judicial handling of child abuse and neglect cases. The legislation provides for the membership of the task force and its powers and duties.

H.5158 MINORITY AFFAIRS Rep. Cobb-Hunter

This bill revises the powers and duties of the State Commission for Minority Affairs, so as to include African Americans, Native Americans, Hispanics, Asians, and others within the minority community and establishes provisions relating to advisory committees and programs and services for these minority groups. The legislation prescribes certain powers and duties of the State Commission for Minority Affairs relating to recognition of Native American entities.

H.5161 SECOND DEGREE SEXUAL EXPLOITATION OF A MINOR

Rep. Limehouse

This bill revises the penalty for the offense of second degree sexual exploitation of a minor so as to provide that, upon conviction, the offender must be imprisoned not less than five (rather than the current two) years nor more than ten (rather than the current five) years.

LABOR, COMMERCE AND INDUSTRY

**S.1007 WORKERS' COMPENSATION COVERAGE FOR VOLUNTEER STATE
CONSTABLES Sen. Bauer**

This bill includes volunteer state constables under the State's workers' compensation laws.

**S.1045 SPECIAL PURPOSE REINSURANCE VEHICLE MODEL ACT
Sen. Thomas**

This bill enacts the "Special Purpose Reinsurance Vehicle Model Act" to include provisions for achieving greater efficiency in conducting insurance securitizations; to diversify and broaden insurers' access to sources of risk-bearing capital; to make insurance securitization as generally available to as many insurers as possible; and to create special purpose reinsurance vehicles in order to facilitate the securitization of one or more ceding insurers' risk as a means of accessing alternative sources of capital.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.5123 UNLICENSED NURSING PERSONNEL Rep. Talley

This bill provides that unlicensed nursing personnel who are under the supervision and at the direction of a registered nurse or licensed practical nurse may administer medications.